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PAGE 01 STATE 122814

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STR-08 TAR-02 TRSE-00 USIA-12 PRS-01 OMB-01 /164 R

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AGRICULTURE: DWANAMAKER

COMMERCE: DROHR

INTERIOR: EGEALY

LABOR: PSEIP

STATE: TGEWECKE

TREASURY: JGORLIN

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R 222155 Z JUN 73

FM SECSTATE WASHDC

TO AMEMBASSY WELLINGTON

INFO USMISSION GENEVA

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E. O. 11652: GDS

TAGS: ETRD, NZ, GATT

SUBJECT: NEW ZEALAND ARTICLE XXVIII NEGOTIATIONS

REFS: (A) GENEVA 2619; (B) GENEVA 1956; (C) STATE 82772;
(D) WELLINGTON 291

1. NEW ZEALAND CONTINUES TO TAKE TARIFF ACTIONS VIOLATING
ITS GATT OBLIGATIONS. DISCUSSIONS IN GENEVA (REF B) AND
INFORMAL REPRESENTATIONS BY EMBASSY WELLINGTON AND BY
WASHINGTON (REF C) HAVE NOT YIELDED SATISFACTORY RESULTS.
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PAGE 02 STATE 122814

THE EMBASSY, THEREFORE, IS REQUESTED TO PRESENT THE FOLLOWING NOTE TO THE GOVERNMENT OF NEW ZEALAND AT AN APPROPRIATELY HIGH LEVEL.

2. " THE U. S. EMBASSY TO THE GOVERNMENT OF NEW ZEALAND PRESENTS ITS COMPLIMENTS AND HAS THE HONOR TO REFER TO NEW ZEALAND TARIFF INCREASES NOTIFIED TO THE CONTRACTING PARTIES TO THE GENERAL AGREEMENT ON TARIFFS AND TRADE VIA DOCUMENTS GATT SECRET/208, 211, AND 213 AND TO THE TEMPORARY ADDITIONAL TARIFF INCREASE ON FLOOR COVERING ITEMS 39.02.081 AND 59.10.011 NOTIFIED BY A LETTER OF 25 MAY 1973 TO THE U. S. MISSION IN GENEVA.

3. THE GOVERNMENT OF NEW ZEALAND HAS IMPLEMENTED A NUMBER OF

INCREASES IN THE RATES OF DUTY APPLICABLE TO ITEMS WHICH ARE BOUND TO THE UNITED STATES UNDER THE GATT. A LIST OF THESE ITEMS, THE INCREASES NOTIFIED TO THE U. S. MISSION GENEVA AND THE GATT, AND 1968-1970 AVERAGE NEW ZEALAND IMPORTS FROM THE UNITED STATES IS ATTACHED FOR YOUR CONVENIENCE.

4. UNDER ARTICLE XXVIII OF THE GATT, THE GOVERNMENT OF NEW ZEALAND, BY NEGOTIATION AND AGREEMENT WITH THE PARTY TO WHOM A TARIFF CONCESSION IS BOUND, MAY MODIFY OR WITHDRAW SUCH A CONCESSION. NEW ZEALAND, HOWEVER, HAS FAILED TO COMPLY WITH THE PROCEDURES OF THE GATT AND HAS IMPLEMENTED A NUMBER OF DUTY INCREASES PRIOR TO OBTAINING AGREEMENT, NEGOTIATING OR EVEN CONSULTING WITH THE UNITED STATES, TO WHOM THE DUTIES ARE BOUND. INCREASES IMPLEMENTED MARCH 29, 1972 WERE NOTIFIED TO THE GATT ONLY ON AUGUST 21, 1972 (SECRET/208). OTHER INCREASES IMPLEMENTED IN JULY 1972 WERE NOT NOTIFIED TO THE GATT UNTIL DECEMBER 1972 (SECRET/211), AND INCREASES IMPLEMENTED IN JANUARY 1973 WERE NOT NOTIFIED UNTIL MARCH (SECRET/213). FINALLY, THE GOVERNMENT OF NEW ZEALAND IMPLEMENTED ADDITIONAL TEMPORARY INCREASE IN DUTY IN MARCH 1973 ON TWO OF THE ITEMS ALREADY NOTIFIED, WHICH WAS REPORTED TO THE U. S. MISSION IN GENEVA BY A LETTER OF MAY 25.

5. THE DEPARTMENT OF TRADE AND INDUSTRY INFORMED THE U. S. LIMITED OFFICIAL USE

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PAGE 03 STATE 122814

EMBASSY IN FEBRUARY THAT IT WAS CONSIDERING ITEMS SUITABLE FOR COMPENSATORY OFFERS AND THE UNITED STATES DELAYED TAKING ANY ACTION PENDING THEIR RECEIPT. NO OFFERS WERE FORTHCOMING AFTER A LAPSE OF OVER TWO MONTHS AND IT BECAME APPARENT THAT IT WOULD BE NECESSARY FOR THE UNITED STATES TO PREPARE A LIST OF REQUEST ITEMS FOR COMPENSATORY TARIFF REDUCTIONS IN ORDER TO EXPEDITE THE NEGOTIATION OF

COMPENSATION.

6. ARTICLE I:4 OF THE GATT PRECLUDES ANY COUNTRY WHICH

GRANTS PREFERENTIAL TARIFF TREATMENT TO IMPORTS FROM CERTAIN COUNTRIES FROM INCREASING THE MARGIN BETWEEN THE TARIFF RATES APPLICABLE TO IMPORTS FROM COUNTRIES ENTITLED TO MOST-FAVORED-NATION TREATMENT AND FROM THOSE COUNTRIES RECEIVING PREFERENTIAL TREATMENT BEYOND SPECIFIED LIMITS. NEW ZEALAND'S TARIFF INCREASE ON ITEM 90.23.001 NOTIFIED IN SECRET/211 PROVIDES FOR A MARGIN OF PREFERENCE EXCEEDING THE MAXIMUM SPECIFIED BY ARTICLE I:4. THE TEMPORARY INCREASES RECENTLY NOTIFIED BY LETTER REGARDING ITEM 39.02.981 MAY ALSO EXCEED THIS MARGIN.

7. THE TOTAL AMOUNT OF U. S. TRADE SUBJECT TO TARIFF INCREASES TO DATE IS APPROXIMATELY U. S. DOLS. 2.9 MILLION (NZ DOLS. 2.6 MILLION). THE UNITED STATES CANNOT ACCEPT PRIOR IMPLEMENTATION OF TARIFF INCREASES AND IS CONCERNED REGARDING THE UNCOMPENSATED LOSS OF TRADE WHICH IT IS INCURRING. IN OCTOBER OF 1972 THE AMERICAN EMBASSY IN WELLINGTON BROUGHT THIS SITUATION TO THE ATTENTION OF THE MINISTRY OF INDUSTRY AND COMMERCE AND RECEIVED ASSURANCE THAT PROCEDURES WOULD BE TIGHTENED AND THAT ARTICLE XXVIII NEGOTIATIONS WOULD BE INITIATED IN A TIMELY FASHION IN THE FUTURE. TO DATE THIS HAS NOT OCCURRED.

8. THE GOVERNMENT OF THE UNITED STATES REQUESTS THE GOVERNMENT OF NEW ZEALAND TO PROMPTLY BRING ITS PROCEDURES FOR MODIFYING TARIFF RATES INTO CONFORMITY WITH THE REQUIREMENTS OF THE GATT FOR PRIOR NEGOTIATION AND AGREEMENT BEFORE INCREASES ARE IMPLEMENTED. WITH REGARD TO COMPENSATION FOR THOSE INCREASES ALREADY IMPLEMENTED, THE

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PAGE 04 STATE 122814

UNITED STATES WILL BE PRESENTING A REQUEST LIST TO THE GOVERNMENT OF NEW ZEALAND'S MISSION IN GENEVA IN THE VERY NEAR FUTURE AND FURTHER WILL REQUEST THAT REQUISITE CHANGES IN TARIFF BE MADE TO BRING ALL MARGINS OF PREFERENCE INTO CONFORMITY WITH ARTICLE I. THE UNITED STATES URGES NEW ZEALAND TO GIVE THESE REQUESTS EARLY CONSIDERATION AND TO MAKE AN OFFER OF COMPENSATION AS SOON AS POSSIBLE." COMPLEMENTARY CLOSE.

9. DATA REFERRED TO IN PARAGRAPH 3 IS BEING AIRPOUCHED SEPARATELY.

10. FOR THE EMBASSY'S INFORMATION WE HAVE BEEN ATTEMPTING TO SETTLE ALL PROBLEMS INVOLVING VIOLATION OF

OUR GATT RIGHTS. WE ARE UNDER INCREASING CRITICISM FROM
THE CONGRESS FOR FAILURE TO PURSUE PARTICULAR CASES AND
ARE THEREFORE PURSUING ALL SUCH CASES TO BRING THEM
INTO CONFORMITY WITH GATT RULES. RUSH

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